

John D. McKay, Esq.  
*Admitted pro hac vice*  
 PARK AVENUE LAW LLC  
 201 Spear Street, Suite 1100  
 San Francisco, CA 94105  
 (434) 531-9569  
 johndmckayatty@gmail.com  
*Attorney for Plaintiffs*

Brian T. Maye, Esq.  
*Admitted pro hac vice*  
 Matthew Martin, Esq.  
*Admitted pro hac vice*  
 Lawrence S. Gosewisch, Esq.  
*Admitted pro hac vice*  
 ADLER MURPHY & MCQUILLEN LLP  
 20 South Clark Street, Suite 2500  
 Chicago, Illinois 60603  
 (312) 345-0700  
 bmaye@amm-law.com  
 mmartin@amm-law.com  
 lgosewisch@amm-law.com  
*Attorneys for Defendants*

**UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEVADA**

PETER DELVECCHIA, <i>et al.</i> ,	)	<b>Case No: 2:19-CV-01322-KJD-DJA</b>
	)	
Plaintiffs,	)	
	)	
vs.	)	<b>STIPULATED MOTION REGARDING</b>
	)	<b>CERTAIN EXPERTS' DEADLINES</b>
	)	
FRONTIER AIRLINES, INC., <i>et al.</i> ,	)	
Defendants.	)	
	)	

Plaintiffs and Defendants, by their respective undersigned counsel, respectfully move this Honorable Court for an Order permitting the depositions of Plaintiffs' expert witness Lindsey Ohler, PsyD ("Dr. Ohler"), and Defendants' expert witness Stephanie Holland, PsyD ("Dr. Holland"), to be

STIPULATED MOTION REGARDING CERTAIN EXPERT DEADLINES

1 taken after the discovery cutoff, which is currently November 18, 2022, and for enlargement of the  
2 disclosure deadlines relating to Dr. Holland's report and a rebuttal to that report. In support of this  
3 Stipulated Motion, the parties jointly represent the following:

4           1.       Under the Court's Order entered March 4, 2022 (ECF No. 163), the deadline to  
5 disclose initial expert witnesses is September 30, 2022, the deadline to disclose rebuttal expert  
6 witnesses is October 28, 2022, and the discovery cutoff is November 18, 2022. These dates are the  
7 result of several extensions that were made necessary by the COVID-19 emergency. The Court's  
8 March 4 Order states, in part, "the Court informs the parties that any further requests for extensions  
9 will be viewed unfavorably. The Court is not inclined to grant any further extensions without very  
10 compelling reasons." ECF No. 163, at 5.

11           2.       Dr. Ohler is a psychologist based in North Carolina who examined Plaintiff A.D. in  
12 December, 2019 and prepared an expert report in January, 2020. She is currently pregnant and on  
13 maternity leave, and has informed Plaintiffs' counsel that she cannot be available for a deposition  
14 until after the first week of January, 2023 due to her medical condition. Those circumstances were  
15 unforeseeable when Dr. Ohler was hired and prepared her report in 2019-20. Counsel for Plaintiffs  
16 and Defendants have conferred and are in agreement that a deposition of Dr. Ohler taken in January  
17 or February of 2023 will not cause any delay in this case.

18           3.       Dr. Holland is a psychologist based in Nevada who has been retained by Defendants to  
19 conduct an independent medical examination of A.D. As the Court is aware, Magistrate Judge  
20 Albregts entered an Order on August 5, 2022 granting the IME (ECF No. 195), which is currently the  
21 subject of Rule 72(a) objections concerning some of its findings and terms. The IME cannot be  
22 scheduled until those objections have been resolved by the District Judge, because the objections  
23 relate to the scope of the examination to be conducted. The parties believe it is likely that the IME  
24  
25  
26  
27  
28

will not be conducted until after the relevant deadlines have expired, and Dr. Holland's report cannot be written and disclosed until after the IME has been conducted. The parties therefore believe that the deadline for the initial disclosure of Dr. Holland's report will need to be enlarged to 30 days following completion of the IME, and disclosure of a rebuttal report by Plaintiffs will need to be enlarged to 30 days after initial disclosure of her report. As that will also result in a necessary delay of Dr. Holland's deposition, the parties agree that a deposition of Dr. Holland also taken in January or February of 2023 will not cause any delay in this case.

4. The parties therefore stipulate to the entry of an Order containing the following terms:

(a) Dr. Ohler's expert report will be disclosed on time on September 30, 2022, but her deposition may be taken by Defendants on a mutually agreeable date in January or February of 2023.

(b) The deadline for the initial disclosure of Dr. Holland's expert report is enlarged to 30 days following the date of completion of her IME of Plaintiff A.D.

(c) The deadline for disclosure of a rebuttal expert report to Dr. Holland's expert report is enlarged to 30 days following the date of disclosure of Dr. Holland's report.

(d) Plaintiffs may take Dr. Holland's deposition on a mutually agreeable date in January or February of 2023.

5. The parties request that the Court find that the reasons cited above constitute "very compelling reasons" for purposes of the Court's March 4, 2022 Order.

DATED this 28<sup>th</sup> day of September, 2022.

IT IS SO ORDERED



United States Magistrate Judge

Date: September 30, 2022

1 SO STIPULATED:

2  
3 /s/ John D. McKay  
4 *Attorney for Plaintiffs Peter DelVecchia*  
5 *and A.D., a Minor*

6 /s/ Brian T. Maye  
7 *Attorney for Defendants Frontier Airlines,*  
8 *Inc., Rex Shupe and Scott Warren*